

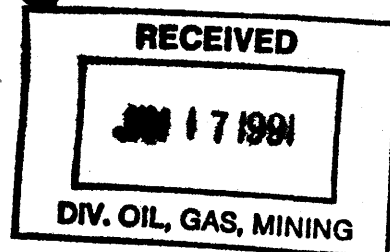
CAUSE NO'S ACT/015/021/ & ACT/015/025 / DOCKET NO. 91-003

IN THE MATTER OF CO-OP MINING
COMPANY, PETITIONER, VS. THE
DIVISION OF OIL, GAS & MINING,
RESPONDENT.

PLEADINGS INDEX

<u>PLEADING #</u>	<u>DATE RECEIVED</u>	<u>DESCRIPTION</u>
#1	1/17/91	Petition For Review (w/Cover Letter)
#2		Stipulation for Board Order

CARL E. KINGSTON (#1826)
Attorney for Petitioner
53 West Angelo Avenue
P. O. Box 15809
Salt Lake City, Utah 84115
Phone: 486-1458



BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH

CO-OP MINING COMPANY,

Petitioner,

vs.

DIVISION OF OIL, GAS
AND MINING,

Respondent.

* PETITION FOR REVIEW

*

* Docket No. 91-003

*

* Cause No.'s ACT/015/021
ACT/015/028

*

Comes now the Petitioner, Co-op Mining Company, and petitions the Board of Oil, Gas & Mining to formally review the proposed assessments issued for the following alleged violations:

<u>No.</u>	<u>Date</u>	<u>Amount</u>
N90-32-2-1	9/10/90	\$420.00
C90-20-4-1	9/26/90	4,500.00
N90-32-3-1	9/6/90	170.00
N90-35-1-1	9/12/90	300.00
C90-32-1-1	10/12/90	750.00

Copies of the NOV's and CO's are attached hereto and are incorporated herein. As grounds for this petition, Petitioner alleges as follows:

1. The alleged violations did not occur.
2. With respect to N90-32-2-1, Petitioner contends that the standard cited was not violated. All applicable

regulations were complied with and any alleged damage occurred as a result of a rain event well in excess of the 10 year 24 hour and 25 year 24 hour design range. In addition, even if a violation did occur, which Petitioner denies, the violation was inadvertent, not due to any negligence, that it was not a serious violation, that there was minimal impact and that Petitioner exercised good faith in abating the alleged violation. Petitioner further contends that the NOV, particularly the abatement deadline, was invalid in that the NOV did not set forth with reasonable specificity the remedial action required.

3. C90-20-4-1 was issued for failure to abate N90-32-2-1. Petitioner contends that since N90-32-2-1 ought to be vacated as no violation occurred and since the NOV did not set forth with reasonable specificity what remedial action was required, C90-20-4-1 was improperly issued and ought to be vacated.

4. With respect to N90-32-3-1, Petitioner contends that the standard cited was not violated. The terms and agreements of the approved mining plan were followed. A test plot cite was selected by Mr. Sauer in 1989 and it was reseeded as proscribed. No violation occurred.


5. With respect to N90-35-1-1, Petitioner contends that the standard cited was not violated. All applicable regulations were complied with and any alleged damage occurred as a result of a rain event well in excess of the 10 year 24 hour and 25 year 24 hour design range. In addition, even if a

violation did occur, which Petitioner denies, the violation was inadvertent, not due to any negligence, that it was not a serious violation, that there was minimal impact and that Petitioner exercised good faith in abating the alleged violation.

6. C90-32-1-1 was issued for failure to abate N90-35-1-1. Petitioner contends that since N90-35-1-1 ought to be vacated as no violation occurred, C90-32-1-1 was improperly issued and ought to be vacated.

WHEREFORE, Petitioner prays that the alleged violations be vacated or reduced, that the money placed in escrow be refunded to Petitioner and for such other and further relief as to the Board seems just.

Dated this 17 day of January, 1990.


Carl E. Kingston
Attorney for Petitioner

CERTIFICATE

I hereby certify that I filed the foregoing Petition by delivering the same to Jan Brown, Secretary, Board of Oil, Gas & Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180-1203, postage prepaid, this 17 day of January, 1991.


Carl E. Kingston

NOTICE OF VIOLATION NO. N 90-32-2-1

Violation No. 1 of 1

Nature of violation

Failure to prevent to the extent possible additional contributions of suspended solids and sediments to streamflow outside the permit area.

Provisions of act, regulations or permit violated

RC14-742.211

Portion of operation to which notice applies

- i Undisturbed talus (colluvium) slope west of the lower pad.
- ii Regraded highwall adjacent (west) to the lower pad.
- iii The entire lower pad area and outslope of the lower pad adjacent to Trail Creek

Remedial action required (including any interim steps)

Submit to the Division plans to provide adequate drainage controls for the above referenced affected areas. Plans must be complete and adequate and implemented upon approval.

Interim Abatement: Additionally the operator must provide interim sediment control measures to include regrading affected areas and reestablishment of sediment control measures.

Abatement time (including interim steps)

Do later than 5:00 P.M. MONDAY, SEPTEMBER 24, 1990

**WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Co-Op Mining Company/Trail Canyon NOV # N90-32-2-1

PERMIT # ACT/015/021

VIOLATION 1 of 1

Assessment Date 1/4/91

Assessment Officer Tom Mitchell

Nature of

Violation: Maintenance of Sediment Control Structures

Date of Termination: 11/20/90

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Previous Violations	<u>1</u>	<u>1</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>20</u>	<u>20</u>
Extent of Damage	<u>10</u>	<u>10</u>
(b) Hindrance to Enforcement	<u>0</u>	<u>0</u>
(3) Negligence	<u>0</u>	<u>0</u>
(4) Good Faith	<u>-0</u>	<u>-0</u>
Total Points	<u>31</u>	<u>31</u>
TOTAL ASSESSED FINE		<u>\$ 420.00</u>

NARRATIVE:

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

jbe

MNACT/015/021



CESSATION ORDER NO. C90-20-4-1

Violation No. 1 of 1

Nature of condition, practice or violation

Failure to submit plans to the Division by
September 24, 1990 @ 5:00 pm that will provide
adequate drainage controls for areas noted as
1, 2, and 3 in NOV N90-32-2-1.
Failure to abate NOV N90-32-2-1 within period set forth
by the in that notice of violation.

Provisions of act, regulations or permit violated

R614-300-300.314 AND
R614-742.211

U.C.A. 1953 et seq 40-10-20(8)

Check appropriate box

- ☐ Condition, practice or violation is creating an imminent danger to health or safety of the public.
- ☐ Permittee/Operator is/has been conducting mining activities without a permit.
- ☐ Condition, practice or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.
- ☒ Permittee or Operator has failed to abate Violation(s) No. 90-32-2-1 included in Notice of Violation No. N _____ within time for abatement originally fixed or subsequently extended.

Operation(s) to be ceased immediately

NONE

Affirmative obligation(s) and abatement time (if applicable)

Immediately

WORKSHEET FOR ASSESSMENT OF CESSATION ORDERS
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-Op Mining Company/Trail Canyon # C90-20-4-1

PERMIT # ACT/015/021 VIOLATION 1 OF 1

Nature of the Cessation Order: Failure to abate NOV #N90-32-2-1

Date of Abatement of Cessation Order: 10/3/90

Date of Receipt of Cessation Order: 9/27/90

List the days of Failure to Abate: September 27, 28, 29, 30,
October 1 and 2, 1990

Number of Days x \$750.00/day = TOTAL ASSESSED FINE: \$4500.00

Assessment Date 1/3/91

Assessment Officer: Tom Mitchell

 Proposed Assessment \$4500.00 Final Assessment

jbe
MNMACT/015/021



NOTICE OF VIOLATION NO. N 90-32-3-1

Violation No. 1 of 1

Nature of violation

Failure to conduct operations in accordance with the
terms and agreements of the approved mining and reclamation
plans.

Provisions of act, regulations or permit violated

RC14-143. Implementation of approved test plots (APPENDIX B-D)

Portion of operation to which notice applies

Down-cast material (proposed substitute topsoil material) along
the upper creek road.

Remedial action required (including any interim steps)

1) Down-cast material cannot be considered as substitute topsoil material
until soil reaction has stabilized (RC14-234). Further, the operator must submit for
to stabilize all down-cast material down-cast material.
2) Submit a written report to the board of water control to permit the topsoil
of high quality soil to be used and show that the alternative topsoil material
is of adequate quantity and quality.

Abatement time (including interim steps)

No later than 5:00 P.M. Wednesday, October 10, 1990.

WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-Op Mining Company/Bear Canyon NOV # N90-32-3-1

PERMIT # ACT/015/025

VIOLATION 1 of 1

Assessment Date 1/3/91

Assessment Officer Tom Mitchell

Nature of

Violation: Test Plot Implementation

Date of Termination: 10/15/90

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Previous Violations	<u>2</u>	<u>2</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>0</u>	<u>0</u>
Extent of Damage	<u>0</u>	<u>0</u>
(b) Hindrance to Enforcement	<u>15</u>	<u>10</u>
(3) Negligence	<u>20</u>	<u>15</u>
(4) Good Faith	<u>-0</u>	<u>-10</u>
Total Points	<u>37</u>	<u>17</u>
TOTAL ASSESSED FINE		<u>\$ 170.00</u>

NARRATIVE:

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Information provided at the assessment conference reflected lesser degrees of seriousness and negligence. Eligibility for good faith points occurred after the proposed assessment, thus 10 points are assigned for due diligence exercised in abating the violation.

jbe
MNACT/015/025



NOTICE OF VIOLATION NO. N 90-35-C1-C1

Violation No. 1 of 1

Nature of violation

Failure to maintain diversions and it's appurtenances
at mine.

Provisions of act, regulations or permit violated

R 64-301-742.212, R 64-301-742.103

Portion of operation to which notice applies

Out dump area at outlet 11-2D

Remedial action required (including any interim steps)

Regrout of a part of outlet 11-2D outlet which
is leaking water. The outlet which developed from the
leakage of the outlet 11-2D was the outlet 11-2D
and the outlet 11-2D was the outlet 11-2D
and the outlet 11-2D was the outlet 11-2D

Abatement time (including interim steps)

Abatement time includes working out outlet 11-2D
no later than September 17, 1990, 5:00 pm.

Abatement time will be no later than 5:00 pm, October
11, 1990, for remaining remedial action.

WHITE-DOGM YELLOW-OSM PINK-PERMITTEE/OPERATOR GOLDENROD-NOV FILE

WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-Op Mining Company/Bear Canyon NOV # N90-35-1-1

PERMIT # ACT/015/025

VIOLATION 1 of 1

Assessment Date 1/4/91

Assessment Officer Tom Mitchell

Nature of

Violation: Maintenance of diversions and of pertinent structures.

Date of Termination: 10/17/90 effective 10/12/90

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Previous Violations	<u>2</u>	<u>2</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>20</u>	<u>15</u>
Extent of Damage	<u>0</u>	<u>0</u>
(b) Hindrance to Enforcement	<u>0</u>	<u>0</u>
(3) Negligence	<u>8</u>	<u>8</u>
(4) Good Faith	<u>-0</u>	<u>-0</u>
Total Points	<u>30</u>	<u>25</u>
TOTAL ASSESSED FINE		<u>\$ 300</u>

NARRATIVE:

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Probability of occurrence of the event, (damage to property), was incorrectly represented in the proposed assessment. As such is was preceived to be off site sediment loading which did not occur. The probability of occurrence of damage to property, would in this case be likely, thus 15 points are assigned.

jb
MNACT015025.



UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Page 2 of 2

CESSATION ORDER NO. C 90-32-1-1

Violation No. 1 of 1

Nature of condition, practice or violation

Failure to abate a violation within the required abatement
time. Failure to abate. D-90-35-1-1

Provisions of act, regulations or permit violated

R 614-400-300-314
R 614-301-742-312
R 614-301-742-123
UCA 1953 40-10-20(2)

Check appropriate box

- ☐ Condition, practice or violation is creating an imminent danger to health or safety of the public.
- ☐ Permittee/Operator is/has been conducting mining activities without a permit.
- ☐ Condition, practice or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.
- ☒ Permittee or Operator has failed to abate Violation(s) No. _____ included in Notice of Violation No. N. 90-35-1-1 within time for abatement originally fixed or subsequently extended.

Operation(s) to be ceased immediately

NONE

Affirmative obligation(s) and abatement time (if applicable)

Comply

WHITE-DOGM YELLOW-OSM PINK-PERMITTEE/OPERATOR GOLDENROD-NOV FILE

DOGM/CO-2

an equal opportunity employer

11/85

WORKSHEET FOR ASSESSMENT OF CESSATION ORDERS
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-Op Mining Company/Bear Canyon CO # C90-32-1-1

PERMIT # ACT/015/025 VIOLATION 1 OF 1

Nature of the Cessation Order: Failure to abate NOV #N90-35-1-1

Date of Abatement of Cessation Order: 10/12/90

Date of Receipt of Cessation Order: 10/12/90 - Hand Delivered

List the days of Failure to Abate: 1

Number of Days x \$750.00/day = TOTAL ASSESSED FINE: \$750.00

Assessment Date 1/3/91

Assessment Officer: Tom Mitchell

 Proposed Assessment \$750.00 Final Assessment

This is the finalized assessment for CO #90-32-1-1 resulting from the assessment conference of Thursday, November 29, 1990.

jb
MNMACT

C. W. MINING 10-89
P. O. BOX 15644
SALT LAKE CITY, UT 84115

1090

Jan. 17, 19 91

31-245/1240

Pay to the
order of Division of Oil, Gas & Mining

\$ 6,140.00***

Six thousand one hundred forty and no/100

Dollars



Capital City Bank

2200 SO. STATE

SALT LAKE CITY, UTAH 84115

escrow fees N90-32-2-1, C90-20-4-1

For N90-32-3-1, N90-35-1-1, C90-32-1-1

Q. T. Brown

⑆ 124002450⑆ 11 02896 6⑈ 1090

Rocky Mountain Bank Note B

*Original check
to Vicki
1-18-91*